

Appln. No. Serial No. 10/777,821  
Amdt. Dated 3/29/07  
Response to OA of 12/1/06  
Page 5 of 6

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### REMARKS

The foregoing amendment amends Claims 1, 2 and 4, cancels Claims 3 and 6-12, and adds Claim 13. Accordingly, Claims 1, 2, 4, 5 and 13 are currently pending.

#### **Kawachi Does Not Describe the Claimed Invention**

The Examiner rejected Claims 1-4 under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. No. 6,540,015 to Kawachi et al. ("Kawachi"). The foregoing amendment amends Claim 1 to clarify that the first tube is sandwiched between two adjacent second tubes. In rejecting Claim 1, the Examiner cited Figs 10-13 of Kawachi. Fig. 13 illustrates refrigerant tubes 1221, water tubes 1223 and spaces or gaps 1224 arranged so that a refrigerant tube is adjacent to a water tube and a gap (or a water tube is adjacent to a refrigerant tube and a gap). Kawachi does not describe that a first tube is sandwiched between two adjacent second tubes since Kawachi describes that there is a space or a gap adjacent to one side of each of the tubes.

Kawachi describes that the gap thermally insulates each of the heat exchanger cores, Ca, from the adjacent heat exchanger cores. Col. 10, lines 5-9. Kawachi teaches away from the claimed invention since it requires a gap. The benefits of the gap described by Kawachi would be lost if a refrigerant tube was sandwiched between two water tubes (or a water tube was sandwiched between two refrigerant tubes), as required by Claim 1.

The foregoing amendments to Claims 2 and 4 were made to conform to the amendments made to Claim 1. Claims 2, 4 and 5 depend from Claim 1 and are patentable for at least the same reasons as Claim 1.

#### **Allowable Subject Matter**

The Examiner objected to Claim 5, but indicated that it would be allowable if rewritten in independent form. In light of the foregoing comments about the patentability of

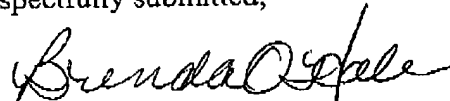
Appln. No. Serial No. 10/777,821  
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Response to OA of 12/1/06  
Page 6 of 6

Claim 1, Claim 5 has not been rewritten. New Claim 13 recites the subject matter of original Claims 1 and 5 and is allowable for at least the same reasons as original Claim 5.

### Conclusion

The foregoing is submitted as a complete response to the Office Action identified above. This application should now be in condition for allowance, and the Applicants solicit a notice to that effect. If there are any issues that can be resolved via a telephone conference, the Examiner is invited to contact the undersigned at 404/685-6799.

Respectfully submitted,



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